

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

PATEL ARPITKUMAR, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

SEQUIUM ASSET SOLUTIONS, LLC,

Defendant.

CIVIL ACTION NO.:

1-21-cv-00647-WMR

**Jury Trial Demanded**

**DEFENDANT SEQUIUM ASSET SOLUTIONS, LLC’S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF’S COMPLAINT**

COMES NOW Defendant Sequium Asset Solutions, LLC ( “Defendant”),  
whom hereby submits its Answer and Affirmative Defenses to the Complaint of Patel  
Arpitkumar (“Plaintiff”) as follows:

**NATURE OF THE ACTION**

1.

In response to paragraph 1 of Plaintiff’s Complaint, Defendant admits that  
Plaintiff makes those allegations. To the extent the allegations in paragraph 1 purport  
to allege any wrongdoing, Defendant denies each and every such allegation therein.

2.

In response to paragraph 2 of the complaint, Defendant denies each and every allegation contained therein.

3.

In response to paragraph 3 of Plaintiff's Complaint, Defendant admits that Plaintiff makes those allegations. Defendant denies engaging in any of the unlawful conduct alleged by Plaintiff and denies that Plaintiff has suffered any damages.

### **JURISDICTION AND VENUE**

4.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 4 of the Complaint, and therefore, denies therein by operation of law.

5.

Answering paragraph 5 of the complaint, Defendant admits the allegations contained therein.

6.

Paragraph 6 of Plaintiff's Complaint calls upon Defendant to make a legal conclusion and thus no response is required; provided, however, that to the extent a response is deemed necessary, Defendant admits herein.

**PARTIES**

7.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 7 of the Complaint, and therefore, denies therein by operation of law.

8.

Paragraph 8 of Plaintiff's Complaint calls upon Defendant to make a legal conclusion and thus no response is required; provided, however, that to the extent a response is deemed necessary, Defendant admits herein.

**THE TCPA**

9.

Paragraph 9 of Plaintiff's Complaint calls upon Defendant to make a legal conclusion and thus no response is required; provided, however, that to the extent a response is deemed necessary, Defendant admits herein.

10.

Paragraph 10 of Plaintiff's Complaint calls upon Defendant to make a legal conclusion and thus no response is required.

11.

Paragraph 11 of Plaintiff's Complaint calls upon Defendant to make a legal conclusion and thus no response is required; to the extent a response is required, Defendant denies that Plaintiff's description in paragraph 11 accurately reflects all TCPA actions.

### **FACTS**

12.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 12 of the Complaint, and therefore, denies therein by operation of law.

13.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 13 of the Complaint, and therefore, denies therein.

14.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 14 of the Complaint, and therefore, denies therein.

15.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 15 of the Complaint, and therefore, denies therein.

16.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 16 of the Complaint, and therefore, denies therein by operation of law.

17.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 17 of the Complaint, and therefore, denies therein.

**CLASS ALLEGATIONS**

**PROPOSED CLASSES**

18.

In response to paragraph 18 of Plaintiff's Complaint, Defendant admits that Plaintiff makes those allegations. Defendant denies engaging in any of the unlawful conduct alleged by Plaintiff and denies that Plaintiff can certify a class.

19.

In response to paragraph 19 of Plaintiff's Complaint, Defendant admits that Plaintiff makes those allegations. Defendant denies engaging in any of the unlawful conduct alleged by Plaintiff and denies that Plaintiff can certify a class.

20.

DENIED, except with regards to Defendant and its employees or agents not being part of any class, which is admitted.

**NUMEROSITY**

21.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 21 of the Complaint, and therefore, denies therein.

22.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 22 of the Complaint, and therefore, denies therein.

**COMMON QUESTIONS OF LAW AND FACT**

23.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 23 of the Complaint, and therefore, denies therein.

24.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 24 of the Complaint, and therefore, denies therein.

**TYPICALITY**

25.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 25 of the Complaint, and therefore, denies therein.

**ADEQUACY**

26.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 26 of the Complaint, and therefore, denies therein.

27.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 27 of the Complaint, and therefore, denies therein.

**PROCEEDING VIA CLASS ACTION IS SUPERIOR**

28.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 28 of the Complaint, and therefore, denies therein.

29.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 29 of the Complaint, and therefore, denies therein.



**COUNT I**  
**VIOLATION OF 47 U.S.C. § 227(b)**  
**(On Behalf of Plaintiff and the Class)**

30.

Defendant reincorporates its responses by reference to Paragraphs 1 through 29 of Plaintiff's Complaint as if fully set forth herein.

31.

Paragraph 31 of Plaintiff's Complaint calls upon Defendant to make a legal conclusion and thus no response is required.

32.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 32 of the Complaint, and therefore, denies therein.

33.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 33 of the Complaint, and therefore, denies therein.

34.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 34 of the Complaint, and therefore, denies therein.

35.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 35 of the Complaint, and therefore, denies therein.

36.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 36 of the Complaint, and therefore, denies therein.

37.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 37 of the Complaint, and therefore, denies therein.

38.

Defendant is without sufficient information or knowledge to admit or deny the allegations contained in paragraph 38 the Complaint, and therefore, denies therein.

### **AFFIRMATIVE DEFENSES**

Defendant alleges the following affirmative and other defenses to Plaintiff's Complaint as set forth below. Defendant reserves the right to amend or assert additional affirmative defenses as facts continue to develop in the course of investigation and discovery.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, due to Plaintiff's failure to state a claim upon which relief may be granted under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claims against Defendant must be dismissed because Plaintiff has not suffered an injury-in-fact, and therefore, lacks standing to assert the claims in the Complaint.

**THIRD AFFIRMATIVE DEFENSE**

Defendant alleges that Plaintiff's Complaint is barred on the grounds that Defendant had express consent to call the telephone number at issue by virtue of direct consent from Plaintiff, consent granted by Plaintiff's agent or by virtue of the consent of a person with common authority over the telephone at issue.

**FOURTH AFFIRMATIVE DEFENSE**

Defendant alleges that Plaintiff consented to the acts and events set forth in the Complaint at all times alleged herein.

**FIFTH AFFIRMATIVE DEFENSE**

The system allegedly used to contact Plaintiff, if at all, has no capacity to store, produce, or text randomly or sequentially generated telephone numbers, and therefore is not an “automatic telephone dialing system” within the meaning of 47 U.S.C. § 227.

**SIXTH AFFIRMATIVE DEFENSE**

Defendant has acted in good faith to comply with the law and has not willfully or knowingly violated any provision, subsection or regulation under the TCPA.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff’s and each putative class member’s claims may be barred, in whole or in part, by the doctrines of waiver, estoppel, and/or release.

As for each enumerated paragraph in Plaintiff’s Complaint, Defendant responds as follows (using Plaintiff’s headings from its Complaint solely for ease of reference):

To the extent Plaintiff’s prayer for relief requires a response, Defendant denies any allegations contained therein. Defendant further denies that any trial by jury is applicable or necessary.

To the extent any allegations in Plaintiff’s Complaint have not been specifically answered by Defendant, they are hereby denied.

WHEREFORE, having answered Plaintiff’s Complaint, Defendant prays

1. For Plaintiff's claims against Defendant to be denied and dismissed;
2. For all costs and fees associated with this action to be awarded for Defendant; and
3. For such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted this 26<sup>th</sup> day of March, 2021.

**LEWIS BRISBOIS BISGAARD &  
SMITH LLP**

/s/ Andrew Craft

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 5.1 and L.R. 7.1(D), the undersigned hereby certify that the foregoing brief was prepared using 14-point Times New Roman font.

Respectfully submitted this 26<sup>th</sup> day of March, 2021.

**LEWIS BRISBOIS BISGAARD &  
SMITH LLP**

/s/ Andrew Craft

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